



Reprinted
March 1, 2005

HOUSE BILL No. 1779

DIGEST OF HB 1779 (Updated February 28, 2005 10:22 pm - DI 102)

Citations Affected: IC 5-10.2.

Synopsis: Public pensions. Authorizes the boards of the teachers' retirement fund (TRF) and the public employees' retirement fund (PERF) to establish by rule: (1) how administrative costs of alternative investment programs may be paid; (2) certain valuation dates; (3) investment allocation increments; (4) the contribution allocations date; and (5) the annuity savings account distribution date during a month. Allows a member with service in more than one retirement fund to elect to receive: (1) a combined retirement benefit from the last fund in which the member rendered service; or (2) a separate retirement benefit from each of the funds the member has qualified to receive a benefit. Allows a fund member who is serving in a elected position, becomes at least 50 years of age, and has at least 30 years of service, to make an irrevocable election to receive the retirement benefit to which the member is entitled while holding the elected position.

Effective: July 1, 2005.

Buell, Kromkowski

January 19, 2005, read first time and referred to Committee on Employment and Labor.
February 24, 2005, amended, reported — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.

C
o
p
y

HB 1779—LS 6941/DI 102+



Reprinted
March 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1779

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The annuity
3 savings account consists of:
4 (1) the members' contributions; and
5 (2) the interest credits on these contributions in the guaranteed
6 fund or the gain or loss in market value on these contributions in
7 the alternative investment program, as specified in section 4 of
8 this chapter.
9 Each member shall be credited individually with the amount of the
10 member's contributions and interest credits.
11 (b) Each board shall maintain the annuity savings account program
12 in effect on December 31, 1995 (referred to in this chapter as the
13 guaranteed program). In addition, the board of the Indiana state
14 teachers' retirement fund shall establish and maintain a guaranteed
15 program within the 1996 account. Each board may establish investment
16 guidelines and limits on all types of investments (including, but not
17 limited to, stocks and bonds) and take other actions necessary to fulfill

HB 1779—LS 6941/DI 102+



C
o
p
y

its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.

(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program **or as may be determined by the rules of each board.**

(5) A valuation of each member's account must be completed as of:

(A) the last day of each quarter; **or**

(B) **another time as each board may specify by rule.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board **or an alternate date established by the rules of each board.** This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent

C
o
p
y



(10%) increments **or smaller increments that may be established by the rules of each board.**

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter **or at an alternate time established by the rules of each board** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of each board.** When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date **or at an alternate time established by the rules of each board.**

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. **However, each board may by rule provide for an alternate valuation date.** When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based

C
o
p
y



on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. **However, each board may by rule provide for an alternate valuation date.**

SECTION 2. IC 5-10.2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For a member who retires with service in more than one (1) retirement fund, **the member may choose, at the member's retirement, whether to receive:**

(1) **a combined retirement benefit from** the last retirement fund in which the member rendered service; ~~shall pay the retirement benefits to the member; or~~

(2) **a separate retirement benefit from each of the retirement funds in which the member rendered service and has qualified to receive a retirement benefit.**

(b) **For an member described in subsection (a), at the member's retirement, each retirement fund in which the member rendered service shall compute the member's pension, if any, and annuity, if any, based only on the member's creditable service in that fund. The last retirement fund in which the member rendered service shall also compute:**

(1) **the member's** ~~The pension shall be computed and determine the member's vested status shall be determined~~ on the basis of **the member's** combined creditable service; ~~The and~~

(2) **the member's** annuity, if any, ~~shall be computed~~ on the basis of amounts credited to the member in annuity savings accounts in all funds.

(c) **After receiving the computations under subsection (b), the member shall elect whether to receive:**

(1) **a separate benefit from each retirement fund in which the member rendered service; or**

(2) **a combined benefit from the last fund in which the member rendered service.**

(d) **If the member elects to receive a combined benefit from the last fund in which the member rendered service, the other funds in which the employee was a member shall pay to the fund responsible for payment of benefits:**

(1) ~~the amount credited to him~~ **the member** in the annuity savings account; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

C
o
p
y



(~~b~~) (e) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at ~~his~~ **the member's** retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If ~~he~~ **the member** chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

SECTION 3. IC 5-10.2-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Unless a member elects otherwise under this section, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account.

(b) A member may choose at retirement or upon a disability retirement to receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, **or an alternate date established by the rules of each board**, to

C
o
p
y



1 receive a distribution of:

2 (A) the entire amount credited to the member in the annuity
3 savings account; or

4 (B) an amount equal to the member's federal income tax basis
5 in the member's annuity savings account balance as it existed
6 on December 31, 1986.

7 If the member chooses to receive the distribution under subdivision
8 (2)(A), the member is not entitled to an annuity as part of the member's
9 retirement or disability benefit. If the member chooses to receive the
10 distribution under subdivision (2)(B), the member is entitled to an
11 annuity purchasable by the amount remaining in the member's annuity
12 savings account after the payment under subdivision (2)(B). If the
13 member does not choose to receive a distribution under this subsection,
14 the member is entitled to an annuity purchasable by the entire amount
15 in the member's annuity savings account, and the form of the annuity
16 shall be as described in subsection (d) unless the member elects an
17 option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter.
18 The amount to be paid under this section shall be determined in the
19 manner described in IC 5-10.2-2-3, except that it shall be determined
20 as of the last day of the quarter preceding the member's actual
21 distribution or annuitization date. **However, each board may by rule
22 provide for an alternate valuation date.**

23 (d) Retirement benefits must be distributed in a manner that
24 complies with Section 401(a)(9) of the Internal Revenue Code, as
25 specified in IC 5-10.2-2-1.5.

26 SECTION 4. IC 5-10.2-4-8.2 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.2. (a)
28 Notwithstanding section 8 of this chapter, if a member who is receiving
29 retirement benefits is elected or appointed to an elected position
30 covered by this article, the member shall file a written, irrevocable
31 election with the board to continue or discontinue retirement benefits
32 while the member holds the elected position.

33 (b) If a member:

34 **(1) is elected or appointed to an elected position and:**

35 **(A) becomes at least fifty (50) years of age; and**

36 **(B) completes at least thirty (30) years of service;**

37 **(+) (2) is elected or appointed to an elected position and:**

38 **(A) becomes at least fifty-five (55) years of age; and**

39 **(B) completes at least twenty (20) years of service; or**

40 **(-) (3) is serving in any other position covered by this article and:**

41 **(A) becomes at least seventy (70) years of age; and**

42 **(B) completes at least twenty (20) years of service;**

C
o
p
y



1 while holding the position, the member may file a written, irrevocable
 2 election to begin receiving, while holding the position, retirement
 3 benefits to which the member would be entitled by age and service. A
 4 member who does not make the irrevocable election while holding the
 5 position is entitled to retroactive payments to cover any period from the
 6 date the member qualifies to make the election under this subsection
 7 to the date the member files the election under this subsection.

8 (c) The form and content of an election shall be prescribed by the
 9 board. If the member elects to discontinue receiving retirement
 10 benefits, the member shall make contributions as required in
 11 IC 5-10.2-3-2. If the member elects to continue or begin receiving
 12 benefits:

13 (1) the member may continue to make contributions under
 14 IC 5-10.2-3-2 but is not required to do so; and

15 (2) the member waives the accrual of service credit and the right
 16 to any supplemental benefit from service in the position, except
 17 to the extent that the value of the accrual of additional service
 18 credit and any supplemental benefit exceeds the actuarial value of
 19 the benefits received under this chapter and that were continued
 20 or begun pursuant to an election under this section.

21 (d) Except to the extent of the liability for any additional benefit
 22 accrued under subsection (c)(2), the employer shall make the
 23 employer's contribution only for past service liability based on the
 24 salary for the position of a member who elects under subsection (a) or
 25 (b) to continue or begin receiving retirement benefits.

26 (e) Section 10 of this chapter applies to a member who elects under
 27 subsection (a) to discontinue receiving retirement benefits. Section 10
 28 of this chapter does not apply, while the member holds a position
 29 covered by this article, to a member who elects under subsection (a) or
 30 (b) to continue or begin receiving retirement benefits.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1779, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The annuity savings account consists of:

- (1) the members' contributions; and
- (2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

- (1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.
- (3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program **or as may be determined by the rules of each board.**
- (5) A valuation of each member's account must be completed as of:

C
o
p
y



(A) the last day of each quarter; **or**

(B) **another time as each board may specify by rule.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

- (1) include a description of the procedure for selecting an alternative investment program;
- (2) be understandable by the majority of members; and
- (3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

- (1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.
- (2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board **or an alternate date established by the rules of each board.** This date is the effective date of the member's selection.
- (3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of each board.**
- (4) A member's selection remains in effect until a new selection is made.
- (5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:
 - (A) for an alternative investment program balance, the market value on the effective date; and
 - (B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter **or at an alternate time established by the rules of each board** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment

C
o
p
y



program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of each board**. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date **or at an alternate time established by the rules of each board**.

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. **However, each board may by rule provide for an alternate valuation date.** When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. **However, each board may by rule provide for an alternate valuation date."**

Delete pages 2 through 3.

Page 4, delete line 1.

Page 4, line 30, after "month," insert "**or an alternate date established by the rules of each board,**".

Page 5, line 8, reset in roman "last".

Page 5, line 8, reset in roman "of the quarter preceding".

Page 5, line 8, delete "before".

Page 5, line 9, after "date." insert "**However, each board may by rule provide for an alternate valuation date."**

C
o
p
y



Page 5, delete lines 13 through 18.
and when so amended that said bill do pass.
(Reference is to HB 1779 as introduced.)

TORR, Chair

Committee Vote: yeas 11, nays 0.

**C
o
p
y**



HOUSE MOTION

Mr. Speaker: I move that House Bill 1779 be amended to read as follows:

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 2. IC 5-10.2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For a member who retires with service in more than one (1) retirement fund, **the member may choose, at the member's retirement, whether to receive:**

(1) **a combined retirement benefit from** the last retirement fund in which the member rendered service; ~~shall pay the retirement benefits to the member; or~~

(2) **a separate retirement benefit from each of the retirement funds in which the member rendered service and has qualified to receive a retirement benefit.**

(b) **For an member described in subsection (a), at the member's retirement, each retirement fund in which the member rendered service shall compute the member's pension, if any, and annuity, if any, based only on the member's creditable service in that fund. The last retirement fund in which the member rendered service shall also compute:**

(1) **the member's** ~~The pension shall be computed and determine the member's vested status shall be determined~~ on the basis of **the member's** combined creditable service; ~~The and~~

(2) **the member's** annuity, if any, ~~shall be computed~~ on the basis of amounts credited to the member in annuity savings accounts in all funds.

(c) **After receiving the computations under subsection (b), the member shall elect whether to receive:**

(1) **a separate benefit from each retirement fund in which the member rendered service; or**

(2) **a combined benefit from the last fund in which the member rendered service.**

(d) **If the member elects to receive a combined benefit from the last fund in which the member rendered service, the other funds in which the employee was a member shall pay to the fund responsible for payment of benefits:**

(1) the amount credited to ~~him~~ **the member** in the annuity savings account; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

~~(b)~~ (e) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after

C
O
P
Y



June 30, 1980, may choose at ~~his~~ **the member's** retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If ~~he~~ **the member** chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

- (1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and
- (2) the proportionate actuarial cost of ~~his~~ **the member's** pension."

Page 5, after line 19, begin a new paragraph and insert:

"SECTION 4. IC 5-10.2-4-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

(b) If a member:

(1) is elected or appointed to an elected position and:

(A) becomes at least fifty (50) years of age; and

(B) completes at least thirty (30) years of service;

(+) (2) is elected or appointed to an elected position and:

(A) becomes at least fifty-five (55) years of age; and

(B) completes at least twenty (20) years of service; or

(-) (3) is serving in any other position covered by this article and:

(A) becomes at least seventy (70) years of age; and

(B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:

- (1) the member may continue to make contributions under

C
o
p
y



IC 5-10.2-3-2 but is not required to do so; and

(2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits."

Renumber all SECTIONS consecutively.

(Reference is to HB 1779 as printed February 25, 2005.)

BUELL

C
O
P
Y

